S T A T E O F N E W Y O R K

4318

2015-2016 Regular Sessions

I N S E N A T E

March 13, 2015

Introduced by Sen. MURPHY -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the state administrative procedure act, in relation to public petitions for rule making

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The state administrative procedure act is amended by adding a new section 208 to read as follows:

S 208. PUBLIC PETITIONS FOR RULE MAKING. 1. ANY PERSON OR PERSONS MAY PETITION AN AGENCY TO REQUEST THE ADOPTION, AMENDMENT, OR REPEAL OF A RULE.

2. A PETITION SHALL MEET THE FOLLOWING MINIMUM REQUIREMENTS:

(A) THE PETITION SHALL INCLUDE THE FULL NAME AND ADDRESS OF EACH PETITIONER AND OF ANY ENTITY OR ORGANIZATION WITH WHICH THE PETITIONER IS AFFILIATED; AND IF THERE ARE MULTIPLE PETITIONERS SHALL IDENTIFY THE PERSON TO WHOM COMMUNICATIONS CONCERNING THE PETITION SHOULD BE DIRECTED;

(B) THE TEXT OF ANY PROPOSED CHANGES TO THE CURRENT RULES SHALL BE SUBMITTED IN A MANNER THAT CLEARLY IDENTIFIES THE WORDS TO BE ADDED TO OR DELETED FROM THE CURRENT RULES OF THE AGENCY;

(C) THE PETITION SHALL IDENTIFY THE STATUTORY AUTHORITY FOR THE PROPOSED RULE;

(D) THE PETITION SHALL INDICATE THE JUSTIFICATION FOR THE PROPOSED RULE, INCLUDING AN IDENTIFICATION OF THE PUBLIC BENEFIT OF THE ADOPTION, AMENDMENT OR REPEAL;

(E) ANY PETITION THAT CONCERNS THE RULES OF MORE THAN ONE AGENCY SHALL BE SUBMITTED TO EACH SUCH AGENCY; AND

(F) THE PETITION SHALL BE LIMITED TO ONE RULE OR A RELATED SERIES OF RULES AND SHALL NOT CONCERN ANY MATTER WHICH IS THE SUBJECT OF A CURRENT NOTICE OF PROPOSED RULE MAKING OR NOTICE OF EMERGENCY ADOPTION.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD02976-01-5

3. AN AGENCY SHALL MAINTAIN A PUBLICLY AVAILABLE FILE OF PETITIONS SUBMITTED TO IT PURSUANT TO THIS SECTION AND SHALL:

(A) POST INFORMATION ON ITS WEBSITE ON HOW PETITIONS MAY BE SUBMITTED TO THE AGENCY AND HOW THE PUBLIC MAY COMMENT ON SUCH PETITIONS;

(B) POST A NOTICE WITHIN THIRTY DAYS OF RECEIPT OF A PETITION THAT INCLUDES THE FULL TEXT OR A SUMMARY THEREOF; AND

(C) SHALL POST WITHIN THIRTY DAYS OF ISSUANCE A WRITTEN DENIAL OF A PETITION.

4. (A) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, AN AGENCY SHALL NOT BE REQUIRED TO TAKE ANY ACTION IN RESPONSE TO A PETITION, BUT MAY IN ITS DISCRETION PUBLISH A NOTICE OF PROPOSED RULE MAKING OR A WRITTEN DENIAL OF A PETITION OR MAY SOLICIT ADDITIONAL INFORMATION, THROUGH THE CONDUCT OF PUBLIC HEARINGS OR OTHERWISE, ON THE MERITS OF A PETITION.

(B) WITHIN ONE HUNDRED EIGHTY DAYS OF RECEIPT OF A PETITION MEETING THE REQUIREMENTS OF THIS SECTION THAT HAS BEEN SIGNED BY ONE HUNDRED OR MORE RESIDENTS OF THE STATE, AN AGENCY SHALL EITHER DENY THE PETITION IN WRITING, STATING ITS REASONS FOR DENIAL, OR ISSUE A NOTICE OF PROPOSED RULE MAKING IN ACCORDANCE WITH THIS ARTICLE. SUCH NOTICE OF PROPOSED RULE MAKING SHALL INCLUDE INFORMATION ON THE INITIATING PETITION AND SHALL BE SUBMITTED FOR PUBLICATION IN THE STATE REGISTER WITHIN TWO HUNDRED SEVENTY DAYS OF RECEIPT OF SUCH PETITION. THE AGENCY MAY VARY THE TEXT OF THE PROPOSED RULE FROM THE TEXT SUBMITTED WITH THE PETITION.

(C) DENIAL OF A PETITION ON THE BASIS THAT IT DOES NOT MEET THE MINIMUM REQUIREMENTS OF THIS SECTION DOES NOT PRECLUDE THE SUBMISSION OF A NEW PETITION ON THE SAME SUBJECT THAT SEEKS TO CORRECT ANY DEFICIENCIES.

5. NOTHING IN THIS SECTION SHALL BE DEEMED TO LIMIT OR MODIFY THE APPLICABILITY OF ANY OTHER PROVISION OF LAW CONCERNING PETITIONS FOR THE ADOPTION, MODIFICATION OR REVOCATION OF RULES, INCLUDING BUT NOT LIMITED TO SECTION THIRTY-SIX-A OF THE AGRICULTURE AND MARKETS LAW AND SECTION SIX HUNDRED SEVENTY-SIX OF THE LABOR LAW.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.